

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

HENRY JACOBSEN,

Plaintiff,

CASE NO. 13cv2850-BTM (JLB)

vs.

SEARS ROEBUCK AND
COMPANY, et al.,

Defendants.

ORDER CONFIRMING
MANDATORY SETTLEMENT
CONFERENCE DATE

[ECF No. 14]

The Court hereby CONFIRMS the Mandatory Settlement Conference (“MSC”) shall go forward as scheduled on September 15, 2014 at 1:30 p.m. The MSC shall take place in the Chambers of Magistrate Judge Jill L. Burkhardt, Edward J. Schwartz U.S. Courthouse, 221 West Broadway, Suite 5140, San Diego, California 92101. Pursuant to Judge Burkhardt’s Civil Chambers Rules, counsel shall LODGE confidential settlement statements directly with Judge Burkhardt’s chambers via e-mail to efile_Burkhardt@casd.uscourts.gov no later than September 8, 2014. Absent good cause, requests for continuances will not be considered unless submitted in writing no less than seven calendar days prior to the scheduled conference. Each party’s settlement statement shall set forth the information required by Judge Burkhardt’s Civil Chambers Rules (available on the Court’s web site). The settlement statements shall not be filed with the Clerk of the Court.

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1 **Personal Appearance of Parties Required:** All parties, adjusters for insured
2 defendants, and other representatives of a party having full settlement authority as
3 explained below, and the principal attorneys responsible for the litigation, must be
4 present **in person** and legally and factually prepared to discuss settlement of the case.
5 Counsel appearing without their clients (whether or not counsel has been given
6 settlement authority) will be cause for immediate imposition of sanctions and may also
7 result in the immediate termination of the conference.

8 Unless there are **extraordinary circumstances**, persons required to attend the
9 conference pursuant to this Order shall not be excused from personal attendance.
10 Requests for excuse from attendance for extraordinary circumstances shall be made in
11 writing at least seven days prior to the conference. Failure to appear at the settlement
12 conference will be grounds for sanctions.

13 **Full Settlement Authority Required:** In addition to counsel who will try the
14 case, a party or party representative with full settlement authority must be present for
15 the conference. In the case of a corporate entity, an authorized representative of the
16 corporation who is not retained outside counsel must be present and must have
17 discretionary authority to commit the company to pay an amount up to the amount of
18 the Plaintiff's prayer (excluding punitive damages prayers). The purpose of this
19 requirement is to have representatives present who can settle the case during the course
20 of the conference without consulting a superior.

21 “Full settlement authority” means that the individuals at the settlement
22 conference must be authorized to explore settlement options fully and to agree at that
23 time to any settlement terms acceptable to the parties. *Heileman Brewing Co. v. Joseph*
24 *Oat Corp.*, 871 F.2d 648, 653 (7th Cir. 1989). The individuals need to have “unfettered
25 discretion and authority” to change the settlement position of a party. *Pitman v.*
26 *Brinker Int'l, Inc.*, 216 F.R.D. 481, 485-86 (D. Ariz. 2003). The purpose of requiring
27 a person with unlimited settlement authority to attend the conference contemplates that
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1 the party's view of the case may be altered during the face to face conference. *Id.* at
2 486. A limited or a sum certain of authority is not adequate. *See Nick v. Morgan's*
3 *Foods, Inc.*, 270 F.3d 590, 595-97 (8th Cir. 2001).

4 IT IS SO ORDERED.
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6 DATED: June 4, 2014
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JILL L. BURKHARDT
United States Magistrate Judge

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